

***IN THE DISTRICT COURT OF THE UNITED STATES
for the Western District of New York***

OCTOBER 2019 GRAND JURY
(Impaneled October 11, 2019)

THE UNITED STATES OF AMERICA

-vs-

**FOURTH
SUPERSEDING
INDICTMENT**

**CARLOS JAVIER FIGUEROA a/k/a
Javi a/k/a Big Bro**

(Counts 1-4, 10-19),

XAVIER TORRES a/k/a Pistolita

(Counts 1, 2, 5, 6, 12-14), and

**JEAN KARLOS PIZARRO a/k/a Jean
Pizarro-Dejesus a/k/a Yankee**

(Counts 1, 2, 7-9, 16)

18-CR-6094-FPG

Violations:

Title 21, United States Code,
Sections 841(a)(1), 846, 848(e)(1)(A),
and 856(a)(1);

Title 18, United States Code,
Sections 924(c)(1)(A) and 2

(19 Counts and Forfeiture Allegation)

COUNT 1

(Narcotics Conspiracy)

The Grand Jury Charges That:

Beginning in or about 2015, the exact date being unknown to the Grand Jury, and through on or about January 29, 2018, in the Western District of New York, and elsewhere, the defendants, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, **XAVIER TORRES a/k/a Pistolita**, and **JEAN KARLOS PIZARRO a/k/a Jean Pizarro-Dejesus a/k/a Yankee**, did knowingly, willfully, and unlawfully combine, conspire, and agree together and with others, known and unknown to the Grand Jury, to commit the following offenses, that is, to possess with intent to distribute, and to distribute, 5 kilograms or more of a mixture and substance containing cocaine; a Schedule II controlled substance, 280 grams

or more of mixture and substance containing cocaine base; a Schedule II controlled substance, and 1 kilogram or more of a mixture and substance containing heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A).

All in violation of Title 21, United States Code, Section 846.

COUNT 2

**(Possessing, Brandishing, and Discharging Firearms
in Furtherance of a Drug Trafficking Crime)**

The Grand Jury Further Charges That:

Beginning in or about 2015, the exact date being unknown to the Grand Jury, and through on or about January 29, 2018, in the Western District of New York, the defendants, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro, XAVIER TORRES a/k/a Pistolita, and JEAN KARLOS PIZARRO a/k/a Jean Pizarro-Dejesus a/k/a Yankee,** during and in relation to a drug trafficking crime for which they may be prosecuted in a court of the United States, that is, a violation of Title 21, United States Code, Section 846, committed in the manner set forth in Count 1 of this Fourth Superseding Indictment, the allegations of which are incorporated herein by reference, did knowingly and unlawfully use, carry, brandish, and discharge, and in furtherance of such crime, did knowingly and unlawfully possess, brandish, and discharge, firearms.

All in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i), 924(c)(1)(A)(ii), 924(c)(1)(A)(iii), and 2.

COUNT 3

(Murder While Engaged in a Narcotics Conspiracy)

The Grand Jury Further Charges That:

On or about September 12, 2016, in the Western District of New York, the defendant, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, while engaged in an offense punishable under Title 21, United States Code, Section 841(b)(1)(A), that is, conspiracy to possess with intent to distribute, and to distribute, 5 kilograms or more of a mixture and substance containing cocaine, a Schedule II controlled substance; 280 grams or more of mixture and substance containing cocaine base, a Schedule II controlled substance; and 1 kilogram or more of a mixture and substance containing heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(A) and 846, did intentionally kill and counsel, command, induce, procure, and cause the intentional killing of Walter Ross, and such killing resulted.

All in violation of Title 21, United States Code, Section 848(e)(1)(A), and Title 18, United States Code, Section 2.

COUNT 4

**(Discharge of a Firearm in Furtherance of
Drug Trafficking Crime and Crime of Violence)**

The Grand Jury Further Charges That:

On or about September 12, 2016, in the Western District of New York, the defendant, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, during and in relation to a drug trafficking crime, that is, a violation of Title 21, United States Code, Section 846, committed in the manner set forth in Count 1 of this Fourth Superseding Indictment, the allegations of which are incorporated herein by reference, and a crime of violence, that is, a violation of

Title 21, United States Code, Section 848(e)(1)(A), committed in the manner set forth in Count 3 of this Fourth Superseding Indictment, the allegations of which are incorporated herein by reference, for which he may be prosecuted in a court of the United States, did knowingly and unlawfully use, carry, and discharge, and in furtherance of such crimes, did knowingly and unlawfully possess and discharge, a firearm.

All in violation of Title 18, United States Code, Sections 924(c)(1)(A)(iii) and 2.

COUNT 5

(Distribution of Heroin)

The Grand Jury Further Charges That:

On or about July 10, 2015, in the Western District of New York, the defendant, **XAVIER TORRES a/k/a Pistolita**, did knowingly, intentionally, and unlawfully possess with intent to distribute, and distribute, heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 6

(Distribution of Heroin)

The Grand Jury Further Charges That:

On or about July 21, 2015, in the Western District of New York, the defendant, **XAVIER TORRES a/k/a Pistolita**, did knowingly, intentionally, and unlawfully possess with intent to distribute, and distribute, heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 7

(Distribution of Heroin)

The Grand Jury Further Charges That:

On or about December 9, 2015, in the Western District of New York, the defendant, **JEAN KARLOS PIZARRO a/k/a Jean Pizarro-Dejesus a/k/a Yankee**, did knowingly, intentionally, and unlawfully possess with intent to distribute, and distribute, heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 8

(Distribution of Heroin)

The Grand Jury Further Charges That:

On or about December 10, 2015, in the Western District of New York, the defendant, **JEAN KARLOS PIZARRO a/k/a Jean Pizarro-Dejesus a/k/a Yankee**, did knowingly, intentionally, and unlawfully possess with intent to distribute, and distribute, heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 9

(Distribution of Heroin)

The Grand Jury Further Charges That:

On or about December 16, 2015, in the Western District of New York, the defendant, **JEAN KARLOS PIZARRO a/k/a Jean Pizarro-Dejesus a/k/a Yankee**, did knowingly, intentionally, and unlawfully possess with intent to distribute, and distribute, heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT 10

(Possession of Heroin With Intent to Distribute)

The Grand Jury Further Charges That:

On or about July 30, 2015, in the Western District of New York, the defendant, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, did knowingly, intentionally, and unlawfully possess with intent to distribute heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

COUNT 11

(Maintaining a Drug-Involved Premises)

The Grand Jury Further Charges That:

Between in or about 2015, the exact date being unknown to the Grand Jury, and on or about July 30, 2015, in the Western District of New York, the defendant, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, did knowingly, intentionally, and unlawfully use and maintain a place, that is, the premises at 6 Burbank Street, Rochester, New York, for the purpose of manufacturing, distributing, and using cocaine, a Schedule II controlled substance, and heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Section 856(a)(1), and Title 18, United States Code, Section 2.

COUNT 12

(Possession of Heroin With Intent to Distribute)

The Grand Jury Further Charges That:

On or about August 12, 2015, in the Western District of New York, the defendants, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, and **XAVIER TORRES a/k/a Pistolita**, did knowingly, intentionally, and unlawfully possess with intent to distribute heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

COUNT 13

(Possession of Cocaine With Intent to Distribute)

The Grand Jury Further Charges That:

On or about August 12, 2015, in the Western District of New York, the defendants, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, and **XAVIER TORRES a/k/a Pistolita**, did knowingly, intentionally, and unlawfully possess with intent to distribute cocaine, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

COUNT 14

(Maintaining a Drug-Involved Premises)

The Grand Jury Further Charges That:

Between in or about 2015, the exact date being unknown to the Grand Jury, and on or about August 12, 2015, in the Western District of New York, the defendants, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, and **XAVIER TORRES a/k/a Pistolita**,

did knowingly, intentionally, and unlawfully use and maintain a place, that is, the premises at 11 Burbank Street, Rochester, New York, for the purpose of manufacturing, distributing, and using cocaine, a Schedule II controlled substance, and heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Section 856(a)(1), and Title 18, United States Code, Section 2.

COUNT 15

(Possession of Cocaine With Intent to Distribute)

The Grand Jury Further Charges That:

On or about January 29, 2018, in the Western District of New York, the defendant, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, did knowingly, intentionally, and unlawfully possess with intent to distribute 500 grams or more of a mixture and substance containing cocaine, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B).

COUNT 16

(Maintaining a Drug-Involved Premises)

The Grand Jury Further Charges That:

Between in or about September 2017, the exact date being unknown to the Grand Jury, and on or about January 29, 2018, in the Western District of New York, the defendants, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, and **JEAN KARLOS PIZARRO a/k/a Jean Pizarro-Dejesus a/k/a Yankee**, did knowingly, intentionally, and unlawfully use and maintain a place, that is, the premises at 292 Barrington Street, Rochester, New York, for the purpose of manufacturing, distributing, and using cocaine, a Schedule II

controlled substance; cocaine base, a Schedule II controlled substance; and heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Section 856(a)(1), and Title 18, United States Code, Section 2.

COUNT 17

(Possession of Firearms in Furtherance of Drug Trafficking Crimes)

The Grand Jury Further Charges That:

On or about January 29, 2018, in the Western District of New York, the defendant, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, in furtherance of drug trafficking crimes for which he may be prosecuted in a court of the United States, that is, violations of Title 21, United States Code, Sections 841(a)(1) and 856(a)(1), committed in the manner set forth in Counts 15 and 16 of this Fourth Superseding Indictment, the allegations of which are incorporated herein by reference, did knowingly and unlawfully possess firearms.

All in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i) and 2.

COUNT 18

(Possession of Heroin With Intent to Distribute)

The Grand Jury Further Charges That:

On or about January 29, 2018, in the Western District of New York, the defendant, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, did knowingly, intentionally, and unlawfully possess with intent to distribute heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

COUNT 19

(Maintaining a Drug-Involved Premises)

The Grand Jury Further Charges That:

Between in or about December 2017, the exact date being unknown to the Grand Jury, and on or about January 29, 2018, in the Western District of New York, the defendant, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, did knowingly, intentionally, and unlawfully use and maintain a place, that is, the premises at 820 East Main Street, apartment number 14, Rochester, New York, for the purpose of manufacturing, distributing, and using cocaine, a Schedule II controlled substance; cocaine base, a Schedule II controlled substance; and heroin, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Section 856(a)(1), and Title 18, United States Code, Section 2.

ALLEGATION OF PRIOR CONVICTION FOR SERIOUS DRUG FELONY

The Grand Jury Alleges That:

Before the defendant, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, committed the offenses charged in Counts 1 and 15 of this Fourth Superseding Indictment, the defendant had a final conviction for a serious drug felony, that is, a violation of Title 21, United States Code, Section 846, for which the defendant served more than 12 months of imprisonment and for which the defendant was released from serving any term of imprisonment related to the offense within 15 years of the commencement of the instant offenses.

ALLEGATION OF PRIOR CONVICTION FOR SERIOUS DRUG FELONY

The Grand Jury Further Alleges That:

Before the defendant, **XAVIER TORRES a/k/a Pistolita**, committed the offense charged in Count 1 of this Fourth Superseding Indictment, the defendant had a final conviction for a serious drug felony, that is, a violation of Title 21, United States Code, Section 846, for which the defendant served more than 12 months of imprisonment and for which the defendant was released from serving any term of imprisonment related to the offense within 15 years of the commencement of the instant offense.

FORFEITURE ALLEGATION

The Grand Jury Further Alleges That:

Upon their conviction on any count of this Fourth Superseding Indictment, the defendants, **CARLOS JAVIER FIGUEROA a/k/a Javi a/k/a Big Bro**, **XAVIER TORRES a/k/a Pistolita**, and **JEAN KARLOS PIZARRO a/k/a Jean Pizarro-Dejesus a/k/a Yankee**, shall forfeit their right, title, and interest to the United States of any firearms and ammunition involved or used in the commission of the offense, or found in the possession or under their immediate control at the time of arrest, including, but not limited to:

- a. one (1) Ruger pistol, bearing serial number 332-13800.

All pursuant to Title 18, United States Code, Sections 924(d) and 3665, and Title 28, United States Code, Section 2461(c).

DATED: Rochester, New York, November 5, 2020.

JAMES P. KENNEDY, JR.
United States Attorney

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A TRUE BILL:

s/FOREPERSON
FOREPERSON